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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/580,666

05/26/2006

Stephan Reichle

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Davidson, Davidson & Kappel, LLC  
485 7th Avenue  
14th Floor  
New York, NY 10018

EXAMINER

IRVIN, THOMAS W

ART UNIT

PAPER NUMBER

3657

MAIL DATE

DELIVERY MODE

09/29/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,666	<b>Applicant(s)</b> REICHLE, STEPHAN	
	<b>Examiner</b> THOMAS W. IRVIN	<b>Art Unit</b> 3657	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-13 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060526</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### ***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Applicant is advised that should claim 12 be found allowable, claim 13 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami (4,852,950) in view of Strehler (5,176,431).

In Re claim 7, Murakami discloses a method for carrying out a braking process, in order to reduce a jolt to a vehicle as a result of pitching movements when a stationary state is reached, the method comprising: reducing a deceleration variable describing a desired vehicle deceleration when a driving state of the vehicle during the braking process meets a first state condition; and increasing the deceleration variable again when the driving state of the vehicle meets a second state condition (see figs. 3A-3D). Murakami fails to teach using a front/rear axle compression travel.

Strehler teaches determining a vehicle deceleration based on compression travel of the front axle during a vehicle dive (see figs. 1 and 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the brake system of Murakami to use an axle compression travel sensing array, as taught by Strehler, in replacement or conjunction with the speed sensors of Murakami, because Murakami is concerned with preventing vehicle dive/rock-back during braking of a vehicle to a standstill, and use of the axle compression travel sensing array would allow for a more accurate determination of the vehicle dynamics and improved control of the braking command.

In Re claims 8 and 9, see fig. 3A of Murakami.

In Re claim 10, Murakami discloses the use of predefined characteristics values (see abstract).

In Re claim 11, see Figs. 3B-3D of Murakami.

In Re claims 12 and 13, Murakami discloses a device for carrying out a braking process in order to reduce a jolt to a vehicle as a result of pitching movements when a stationary state is reached comprising: deceleration determining means, sensors (84,88,90,140) for determining a deceleration variable describing a desired vehicle deceleration, the deceleration determining means reducing the deceleration variable when a driving state of the vehicle during the braking process meets a first state condition and increasing the deceleration variable again when the driving state of the vehicle meets a second state condition (see figs. 3A-3D). Murakami fails to teach a front/rear axle compression travel sensing array.

Strehler teaches using a front/rear axle compression travel sensing array to determine a vehicle deceleration and vehicle dive during a braking operation (see figs. 1 and 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the brake system of Murakami to use an axle compression travel sensing array, as taught by Strehler, in replacement or conjunction with the speed sensors of Murakami, because Murakami is concerned with preventing vehicle dive/rock-back during braking of a vehicle to a standstill, and use of the axle compression travel sensing array would allow for a more accurate determination of the vehicle dynamics and improved control of the braking command.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS W. IRVIN whose telephone number is (571)270-3095. The examiner can normally be reached on Mon-Fri 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas W. Irvin/  
Examiner, Art Unit 3657

/Robert A. Siconolfi/  
Supervisory Patent Examiner, Art  
Unit 3657